

Medical Vocational and Disability Benefits

What Rights To Medical, Vocational, And Disability Benefits Does an Injured Employee Have under the Alabama Workers Compensation Act

George Allen Moore

Johnston, Moore & Thompson

400 Meridian Street Suite 301

Huntsville, AL 35801

(256) 533-5770

www.alabamajusticecenter.com

A: Medical Benefits:

The employer is liable to the Employee for “reasonable” and “necessary” medical treatment resulting from a job-related injury. This liability for medical treatment is limited only by the requirement that it be necessary and reasonable. The employer is also liable for the cost of medical supplies, such as crutches, hearing aides or prescriptions, and other expenses incident to reasonable and necessary medical care. This includes mileage to and from medical and rehabilitation providers at the rate paid by the State for official travel.

If the Employee needs medical treatment because of a work-related injury, the Employee must go to the physician or hospital chosen by the employer. If at some point this physician is unsatisfactory to the Employee, the Employee has the right to select another doctor from a panel of four physicians provided by the employer.

B: Vocational Rehabilitation Services:

In some circumstances, the employer is also liable for vocational rehabilitation of the injured Employee, including the costs and expenses of such rehabilitation. If an employer offers vocational rehabilitation and the Employee refuses, the Employee risks losing

future disability benefits.

C: Disability Benefits:

Besides medical benefits, the employer is liable for disability benefits to compensate an Employee for wages lost due to a job-related injury. Unless the injured Employee is permanently and totally disabled, the period he can receive benefits is limited by the Act, and the amount of benefits is limited for all injured Employees. An injured worker is also entitled to vocational disability benefits if the worker suffers a loss earning capacity from a job-related injury.

D: Types of Disability and Amount of Benefits

1. **“Temporary Total”** disability occurs when an injury causes total disability – that is, the Employee cannot perform gainful employment – for a limited period.

The amount of compensation available is two-thirds of the injured Employee’s average weekly earnings at the time of the injury, subject to maximum and minimum amounts set by the Act. They are payable until the Employee recovers completely or reaches “maximum medical improvement,” which is the full extent that the Employee can recover given the injury.

Example: John works in a warehouse and makes \$600.00 per week. He hurts his back on the job, and his doctor says he cannot work at all while he recovers. John is entitled to \$400.00 per week in temporary total benefits until the doctor releases him to go back to work: two-thirds of his salary at the time he got hurt.

2. **“Temporary Partial”** disability occurs when an injury causes a partial disability (i.e. a partial loss of ability to earn wages) for a limited period.

To determine the benefits owes to the Employee, the amount by which the Employee’s earning capacity is reduced must be established first. This is accomplished simply by comparing the amount earned **before** injury with the amount earned **after** injury. The amount of compensation available is two-thirds of the difference between what

the Employee earned before the injury, for up to 300 weeks, subject to maximum and minimum amounts set by the Act.

Example: Jane works in the same warehouse as John and makes \$600.00 per week. She also hurts her back on the job. While she recovers, however, she can do some of her duties. Her employer agrees that until Jane completely recovers, she only has to answer the warehouse phone, and pays her \$300.00 per week. Jane is also entitled to \$200.00 per week in temporary partial benefits until her back improves: two-thirds of the difference between the \$600.00 she was making at the time she got hurt and the \$300.00 she will earn until she recovers.

3. **“Permanent Partial”** disability occurs when an injury causes an irreparable injury to part of an Employee’s body.

To determine the amount of benefits payable, the degree to which the injury decreases the Employee’s ability to earn wages must be established first. This degree of disability is expressed as a “percentage” of disability. The amount of compensation available is that percentage of two-thirds of the Employee’s average earnings before injury for up to 300 weeks, subject to maximum and minimum amounts set by the Act.

The percentage of permanent disability is based on limitations caused by the Employee’s injury. Employees who return to work making the same wage as when they were injured can only recover permanent disability benefits based on their degree of medical impairment. Employees who cannot return to work making the same wages are entitled to permanent disability benefits based on their loss of ability to earn income, or “vocational disability.” If within 300 weeks from the date of injury a returning Employee is unable to continue performing the job, he or she may then pursue benefits based on vocational disability.

Examples: Once Jane recovers from her back injury, she returns to her job in the warehouse and to her \$600.00 per week salary. She still has some continued pain and a slight loss of motion at her waist, however, Jane’s doctor places some restrictions on the amount of lifting,

bending and stooping, she can do. She has a 10% permanent physical impairment. Jane is entitled to draw \$40.00 a week in permanent partial disability benefits: 10% of two-thirds of her wage (\$400.00) at the time she got hurt.

After six months and two surgeries, John recovers to the extent possible, but has lost motion in his back and has two fused disks in his back. The doctor releases John from his care, but restricts John from any bending or stooping at all, sitting or standing for more than 30 minutes at a time, and from all lifting more than five pounds. John cannot ever return to work in the warehouse, but he does find another job that pays him less than \$600.00 per week. Based on the doctor's testimony about John's restrictions, and vocational testimony about John's ability to find and hold a job, John has a 50% permanent disability. John is entitled to \$200.00 a week in permanent partial disability benefits: 50% of two-thirds of his wage (\$400.00) at the time he got hurt.

4. **"Permanent Total"** disability occurs when a worker can no longer perform his former job and is unable to perform reasonably gainful employment. Reasonably gainful employment is work that is suited to the worker's skills, education and age, and is comparable to the worker's previous work in the areas of compensation and job duties. Permanent Total disability does not require that the Employee be completely helpless.

The amount of compensation available is two-thirds of the average weekly earnings received before injury, subject to maximum and minimum amounts set by the Act. The benefits are payable for life, or until the disability ends.

Examples: Rita, who also works in the warehouse and makes \$400.00 per week, is run over by a forklift and seriously injured. After a year of surgery and treatment she recovers somewhat, but has stringent permanent restrictions on her physical abilities. In addition to restrictions on bending, lifting and the like, she can no longer drive, has blurry vision, and can only walk with a cane. Her injuries have caused her to be depressed, as well. In her doctor's opinion, Rita cannot return to

any gainful employment. Rita is entitled to \$266.67 a week (two-thirds of her wage at the time of her accident) in permanent total disability benefits for the rest of her life or until she recovers enough to be able to work again.